

### **IC 15-2.1-23**

Chapter 23. Milk and Milk Products; Permits; Standards; Inspections

#### **IC 15-2.1-23-1**

##### **Adulterated or misbranded milk or milk products**

Sec. 1. (a) A person may not produce, provide, sell, offer, or expose for sale, or have in possession with intent to sell, milk or a milk product that is adulterated or misbranded.

(b) A person who retains a permit under this chapter may not produce, provide, sell, offer, or expose for sale, or have in possession with intent to sell, milk or a milk product that is adulterated or misbranded.

(c) Adulterated or misbranded milk or milk product may be impounded by the board and disposed of in accordance with IC 16-42-1 and IC 16-42-2-6. For purposes of this section, references in IC 16-42-1 and IC 16-42-2-6 to "state health commissioner" refer to the state veterinarian and references to "department" refer to the board.

(d) Milk and milk products must conform to all of the standards in this chapter and in the rules adopted by the board. But, if there is an emergency, general, and acute shortage of milk in a milkshed, the board may authorize the sale of pasteurized milk that does not fully meet the requirements of this chapter.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.146.*

#### **IC 15-2.1-23-2**

##### **Permit requirements; suspension of permit; guidelines for reinstatement**

Sec. 2. (a) A person who operates a milk plant, operates a receiving station or transfer station, acts as a milk distributor, acts as a bulk milk hauler/sampler, operates a milk tank truck, operates a dairy farm, operates a milk tank truck cleaning facility, operates a business that manufactures containers for milk or milk products, or any other person who does not possess a permit from the board may not:

- (1) bring, send, or receive into Indiana for sale;
- (2) sell or offer for sale in Indiana; or
- (3) store in Indiana;

any milk or milk products. Grocery stores, restaurants, soda fountains, and similar establishments where milk or milk products are served or sold at retail, but not processed, are exempt from the requirements of this section. The board may recognize a permit issued by another state for a truck used to transport milk instead of issuing an Indiana permit for the same truck.

(b) A person desiring a permit required by this chapter must make written application, in the form prescribed by the board, to the board for such a permit.

(c) Only a person who complies with this chapter is entitled to

receive and retain a permit. Permits are not transferable with respect to persons or locations.

(d) The board may suspend a permit whenever:

- (1) there is reason to believe that a public health hazard exists;
- (2) the permit holder has violated any of the requirements of this chapter; or
- (3) the permit holder has interfered with the board in the performance of the board's duties.

(e) The board shall:

- (1) in all cases except where the milk or milk product involved creates or appears to create an imminent hazard to the public health; or
- (2) in any case of a willful refusal to permit authorized inspection;

serve upon the holder a written notice of intent to suspend the permit under IC 4-21.5. A suspension of a permit is effective immediately and remains in effect until the violation has been corrected to the satisfaction of the board.

(f) When a permit suspension has been due to a violation of any of the bacterial, coliform, somatic cell, or cooling temperature standards, the board shall, not later than one (1) week after the receipt of a written application for reinstatement of a permit, issue a temporary permit after determining by an inspection of the facilities and operating methods that the conditions responsible for the violation have been corrected. Samples must then be taken at the rate of not more than two (2) per week on separate days within a three (3) week period, and the board shall reinstate the permit upon compliance with the appropriate standard, as determined in accordance with section 5 of this chapter.

(g) If a permit suspension was due to a violation of a drug residue test requirement or a requirement other than the bacteriological, coliform, somatic cell, or cooling temperature standards, the application for reinstatement must contain a written statement to the effect that the violation has been corrected. Not later than one (1) week after the receipt of an application, the board shall make an inspection of the applicant's establishment and as many subsequent additional inspections as are considered necessary to determine that the applicant's establishment is complying with the requirements. When the findings justify, the permit must be reinstated. If a permit suspension is due to drug residues, the permit shall be reinstated in accordance with section 6.5 of this chapter.

(h) The board may refuse to issue or reissue, may suspend for a definite time, or may revoke permits issued under this chapter for repeated violations of this chapter or a rule adopted by the board. The issuance or revocation of a permit under this section must be conducted in accordance with IC 4-21.5.

(i) A permit issued under this chapter expires as follows:

- (1) A bulk milk hauler/sampler permit expires on December 31 of the third year after the year in which the permit was issued.
- (2) A dairy farm permit expires upon an action listed in

subdivisions (4) through (6).

(3) A permit, other than a bulk milk hauler/sampler permit and a dairy farm permit, expires on December 31 of the year in which the permit was issued. Permits issued within the last three (3) months of a year may be issued to expire on December 31 of the following year.

(4) Upon discontinuance of operation for a period of ninety (90) days.

(5) Upon the revocation of the permit by the board.

(6) Upon the sale or other transfer of an operation to a different owner or operator.

(7) For a milk distributor, milk plant, receiving station, transfer station, or milk tank truck cleaning facility, a transfer of the place of business from one (1) building or room to another.

(j) The board may adopt rules under IC 4-22-2 to implement this section.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.147; P.L.93-2005, SEC.30.*

### **IC 15-2.1-23-3**

#### **Duty of board to inspect; inspection report; access to facility required; prohibited use of trade secrets**

Sec. 3. (a) The state veterinarian shall examine each application for a permit required in this chapter. If it appears from the application that the applicant for a permit has complied with all statutes and rules enforced by the board, the state veterinarian shall cause the premises, location, equipment, and operating practices of the applicant to be inspected not later than ten (10) days after the receipt of the application for a permit. If the premises, location, equipment, and operating practices comply with all of the applicable provisions of this article and the rules of the board, the state veterinarian shall issue a permit entitling the applicant to engage in the business for which the application was submitted.

(b) Following the issuance of a permit, the board may, to determine compliance with this chapter, inspect the licensee's facility, procedures, and equipment. The board shall conduct the following inspections:

(1) Each dairy farm and transfer station at least one (1) time every six (6) months.

(2) Each milk plant and receiving station at least one (1) time every three (3) months.

(c) If the board finds a violation of the standards for Grade A milk adopted under section 6 of this chapter, a second inspection is required after the time thought necessary to remedy the violation but not sooner than three (3) days. The reinspection must be used to determine compliance with the requirements adopted under section 6 of this chapter. A violation of the same requirement on the reinspection results in permit suspension in accordance with section 2 of this chapter or court action, or both.

(d) One (1) copy of the inspection report must be:

- (1) handed to the operator or other responsible person; or
- (2) posted in a conspicuous place on an inside wall of the establishment.

The inspection report may not be defaced and must be made available to the board upon request. An identical copy of the inspection report must be filed with the records of the board.

(e) A person licensed under this chapter shall, upon request of the board, permit access of officially designated persons to all parts of the person's establishment or facilities to determine compliance with this chapter. A distributor or plant operator shall furnish the board, upon request and for official use only, a true statement of the actual quantities of milk and milk products of each grade purchased and sold and a list of all sources of the milk and milk products, records of inspection, tests, and pasteurization time and temperature records.

(f) A person who, in an official capacity, obtains under this chapter any information that is entitled to protection as a trade secret, including information as to quantity, quality, source, or disposition of milk or milk products, or results of inspections or tests, may not use the information to the person's own advantage or reveal the information to an unauthorized person.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.148.*

### **IC 15-2.1-23-3.3**

#### **Unsanitary conditions**

Sec. 3.3. If the board finds unsanitary conditions existing in violation of sanitary statutes or rules of the state or a violation of this chapter:

- (1) on a dairy farm;
- (2) in a milk plant, receiving station, transfer station, or milk tank truck cleaning facility; or
- (3) by a milk distributor, bulk milk hauler/sampler, owner of a can milk route, or owner of a milk tank truck;

the board shall, by notice in writing to the person committing the violation, prohibit the sale or transportation of raw or pasteurized milk or milk products until the unsanitary condition or violation is removed to the satisfaction of the board and the prohibition is terminated.

*As added by P.L.124-2001, SEC.149.*

### **IC 15-2.1-23-3.5**

#### **Grader permit**

Sec. 3.5. (a) A milk plant, receiving station, or transfer station that receives raw milk or raw cream from a producer of raw milk or raw cream shall employ at least one (1) approved grader.

(b) The board may issue an approved grader permit to a person if the person meets the following requirements:

- (1) The person has submitted an application for an approved grader permit to the board.
- (2) The person is trained by school or experience to grade and

inspect raw milk or raw cream.

(3) The applicant has passed an examination given by the board.

(c) An application to renew an approved grader permit must be made on forms prescribed by the board.

(d) A permit of approval does not authorize an approved grader to be an official employee, an agent, or a representative of the board. An approved grader may not profess to be an employee, an agent, or a representative of the board.

*As added by P.L.124-2001, SEC.150.*

#### **IC 15-2.1-23-4**

##### **Labeling information; shipping statement**

Sec. 4. (a) A bottle, container, or package enclosing milk, Grade A dry milk products, or milk products must be labeled in accordance with the rules of the board.

(b) A vehicle or transport tank containing milk or milk products must be legibly marked with the name and address of the milk plant or hauler in possession of the contents.

(c) A tank transporting raw, heat treated, or pasteurized milk or milk products to a milk plant from sources of supply not under the routine supervision of the board must be marked with the name and address of the milk plant or hauler and must be sealed. In addition, for each shipment a shipping statement must be prepared containing at least the following information:

(1) The shipper's name, address, and permit number.

(2) The permit number of the hauler if not an employee of the shipper.

(3) The point of origin of shipment.

(4) The tanker identity number.

(5) The name of the product.

(6) The weight of the product.

(7) The grade of the product.

(8) The temperature of the product.

(9) The date of shipment.

(10) The name of the supervising agent of the state regulatory authority at the point of origin.

(11) Whether the contents are raw, pasteurized, or otherwise heat treated.

(12) The seal number on inlet, outlet, and wash connections and vents.

(13) The grade of the product.

(14) The antibiotic test results.

(d) The statement must be prepared in triplicate and must be kept on file by the shipper, the consignee, and the carrier for six (6) months for the information of the board.

(e) The labeling information that is required on all bottles, containers, or packages of milk or milk products must be in letters of an acceptable size, kind, and color satisfactory to the board and must contain no marks or words that are misleading.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001,*

*SEC.151.*

**IC 15-2.1-23-5**

**Samples; testing and examination; written notice upon exceeding standards**

Sec. 5. (a) Samples of raw and processed milk and milk products shall be collected as required under this section and rules adopted by the board as follows:

- (1) A bulk milk hauler/sampler shall collect a representative sample of the milk from each farm tank before collecting the milk for delivery. Each sample must be labeled so as to identify the farm of origin. Each sample must be delivered to a milk plant, receiving station, transfer station, or other location approved by the board.
- (2) During a consecutive six (6) months, at least four (4) samples of raw milk for pasteurization must be collected from each milk producer. The samples must be taken at least twenty (20) days apart.
- (3) During six (6) consecutive months, at least four (4) samples of raw milk for pasteurization must be collected from each milk plant, after receipt of the milk by the milk plant and before pasteurization. The samples taken from the producer may not be taken in the same month and the samples must be taken at least twenty (20) days apart.
- (4) During any consecutive six (6) months, at least four (4) samples of pasteurized milk, heat treated milk, and at least four (4) samples of milk products and Grade A dry milk products must be taken from every milk plant. The samples must be taken at least twenty (20) days apart.

Samples of milk and milk products must be taken while in possession of the producer or distributor at any time before final delivery. Samples of milk and milk products from dairy retail stores, food service establishments, grocery stores, and other places where milk and milk products are sold must be examined periodically as determined by the board, and the results of the examination must be used to determine compliance with this chapter. Proprietors of such establishments must furnish the board, upon the board's request, with the names of all distributors from whom milk or milk products are obtained.

(b) Bacterial counts, somatic cell counts, and cooling temperature checks must be performed on raw milk for pasteurization as required by the board.

(c) In addition, antibiotic tests on milk from each producer's farm must be conducted at least four (4) times during any consecutive six (6) months, but not in the same month. Antibiotic testing of commingled milk from bulk milk vehicles must be conducted as specified by the United States Food and Drug Administration or the board. When commingled milk is tested, all producers must be represented in the sample. All individual sources of milk must be tested when test results on the commingled milk are positive. The

milk plant, receiving station, or transfer station shall conduct or have conducted all tests required by the board on milk producer raw milk sample laboratory analyses and forward the results of the analyses to the board.

(d) Bacterial counts, coliform determinations, phosphatase, and cooling temperature checks must be performed on pasteurized milk and milk products as required by rules adopted by the board.

(e) Whenever two (2) of the last four (4) consecutive bacteria counts, somatic cell counts, coliform determinations, or cooling temperatures taken on separate days exceed the limit of the standard for milk or milk products, the board shall send a written notice to the person concerned. This notice remains in effect as long as two (2) of the last four (4) consecutive samples exceed the limit of the standard. An additional sample must be taken not later than twenty-one (21) days after sending the notice, but not before the lapse of three (3) days. Immediate suspension of a permit or court action, or both shall be instituted whenever the standard is violated by three (3) of the last five (5) bacteria counts, somatic cell counts, coliform determinations, or cooling temperatures.

(f) Whenever a phosphatase test is positive, the cause must be determined. When the cause is improper pasteurization, the problem must be corrected and any milk or milk product involved may not be offered for sale.

(g) Samples must be analyzed at an official or appropriate officially designated laboratory. All sampling procedures and required laboratory examinations must be in substantial compliance with the most current edition of the Standard Methods for the Examination of Dairy Products of the American Public Health Association and the most current edition of the Official Methods of Analyses of the Association of Official Analytical Chemists. These procedures and examinations must be evaluated in accordance with the methods of evaluating milk laboratories recommended by the United States Food and Drug Administration. Aseptically processed milk and milk products packaged in hermetically sealed containers shall be tested in accordance with the United States Food and Drug Administration's Bacteriological Analytical Manual.

(h) Examinations and tests must be conducted to detect adulterants, including pesticides, as the board requires. Assays of Vitamin D milk or milk products and fortified milk and milk products must be made at least annually by a milk plant in a laboratory acceptable to the board. Facilities fortifying products with vitamins must keep volume control records that cross-reference the form and amount of vitamin D and vitamin A used with the amount of product produced.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.152.*

#### **IC 15-2.1-23-6**

##### **Compliance with federal standards**

Sec. 6. (a) Raw milk for processing and milk and milk products

must conform to all of the standards in the rules adopted by the board.

(b) The board shall adopt a rule and may adopt emergency rules under IC 4-22-2-37.1 to establish standards for Grade A milk and milk products. The standards adopted under this section must be:

- (1) the same as; or
- (2) at least as effective in protecting health as;

the federal standards for Grade A milk adopted by the National Conference on Interstate Milk Shipments in accordance with the national conference's Memorandum of Understanding with the United States Department of Health and Human Services, Food and Drug Administration, including amendments to the federal standards in effect June 30, 1993.

(c) The board shall determine when an amendment to federal standards described in subsection (b) has been adopted. If the board determines that an amendment to the federal standards has been adopted, the board shall adopt rules and may adopt emergency rules under IC 4-22-2-37.1 to amend the rules adopted by the board under subsection (b) to provide a standard that is:

- (1) the same as; or
- (2) at least as effective in protecting health as;

the amendment to the federal standards for Grade A milk.

(d) The board may adopt standards for the production of manufacturing grade milk products.

(e) The board may do the following:

- (1) Adopt rules defining grades of raw milk and milk products and various tests to be made at different intervals in the receipt of raw milk and milk products for the manufacturing or processing of milk and milk products.
- (2) Adopt sanitary rules concerning the sampling, production, manufacturing, processing, handling, packing, storing, distributing, and transporting of milk and milk products for the enforcement of this chapter.
- (3) Provide that raw milk and milk products that do not meet the minimum standards provided and that are unfit for human consumption be destroyed or otherwise removed from distribution channels for human food in a manner provided by rule.
- (4) Require training for bulk milk hauler/samplers.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.153.*

### **IC 15-2.1-23-6.3**

#### **Sale of milk and milk products**

Sec. 6.3. (a) A person may not manufacture, sell, exchange, or have in the person's possession with intent to sell or exchange, any milk or milk product that:

- (1) does not conform to at least the minimum standards established and approved by the board; and
- (2) is packaged in a container or wrapping with labeling that has



not been approved by the board.

(b) A person may not manufacture, sell, exchange, or deliver, or have in the person's possession with intent to sell, exchange, or deliver, milk, cream, skim milk, condensed milk, evaporated milk, or powdered milk that:

(1) is mixed with sugar, eggs, flavors, or other substances;

(2) is:

(A) made in imitation or semblance of ice cream; or

(B) calculated or intended to be sold as ice cream or for ice cream; and

(3) does not conform with the standards for ice cream as approved and adopted by the board.

(c) This chapter does not prohibit the delivery to and the receiving of identifiable refillable milk containers by exchanges in the usual course of business and for the bona fide purpose of restoring the containers to the lawful owners.

*As added by P.L.124-2001, SEC.154.*

#### **IC 15-2.1-23-6.5**

##### **Drug residue violation screenings; violations; civil penalties**

Sec. 6.5. (a) The following definitions apply throughout this section:

(1) "DP" or "daily production" means the amount of milk, measured by hundred weight, produced by the positive producer in one (1) day, measured on the day in which the drug residue violation occurred.

(2) "PR" or "producer reimbursement" means an amount assessed against the positive producer to reimburse others for milk contaminated by the positive producer's contaminated milk, not including the value of the positive producer's contaminated milk for which he or she was not paid.

(3) "Revocation period" means the period after a Grade A producer's permit is revoked under this section that the producer may not apply for a Grade A permit.

(b) A penalty established under this section may not be more severe than the penalty standard for drug residue violations adopted by the National Conference on Interstate Milk Shipments in its Pasteurized Milk Ordinance adopted in accordance with the National Conference's Memorandum of Understanding with the United States Department of Health and Human Services, Food and Drug Administration. The penalty imposed may not exceed one thousand dollars (\$1,000) for a first offense or two thousand dollars (\$2,000) for a subsequent offense.

(c) The board may impose a civil penalty described in this section on a person that sells or offers to sell milk that contains drug residues.

(d) Milk shall be screened for drug residue violations as follows:

(1) Except as provided in subdivision (2), milk shall be screened for drug residues as required by this chapter and rules adopted by the board. The board may adopt rules governing

testing for drug residues in milk that are at least as effective in protecting the public health as the federal standards adopted by the National Conference on Interstate Milk Shipments in the Pasteurized Milk Ordinance.

(2) Milk from manufacturing grade dairy farms shall be tested for drug residues as required by this chapter and rules adopted by the board.

(3) All milk that tests positive for drug residues must be disposed of in a manner that removes it from the human and animal food chain or that acceptably reconditions the milk under United States Health and Human Services – Food and Drug Administration compliance policy guidelines. In all cases of drug residue violations, a producer may not resume shipping milk until a drug test conducted by an officially designated laboratory shows the producer's milk is negative for drug residues and the test results are reported to the office of the state veterinarian.

(4) All positive drug residue test results must be called into the office of the state veterinarian immediately, and a written report of the test results must be faxed or delivered to the office of the state veterinarian within twenty-four (24) hours of the test. The producer whose milk tested positive must be notified of the positive drug residue test immediately. The company that conducted the test is responsible for the reporting requirements in this subdivision.

(5) A producer whose milk tests positive for drug residues shall pay a civil penalty and participate in drug residue education activities as follows:

(A) The following is imposed on a producer for the first positive test for drug residues within a twelve (12) month period:

(i) The positive producer must pay a civil penalty to the board equal to the result of the following equation:

(DP times two (2) days times three dollars (\$3)) minus PR. However, if the result is less than five dollars (\$5) then the civil penalty is five dollars (\$5).

(ii) The positive producer must, in conjunction with the producer's veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the board of animal health, office of the state veterinarian within thirty (30) days of the drug residue violation. Failure to complete the Protocol and submit proof of completion within thirty (30) days will result in action to suspend the producer's permit.

(B) The following is imposed for a second positive test for drug residues within a twelve (12) month period:

(i) The positive producer must pay a civil penalty to the board equal to the result of the following equation:

DP times four (4) days times three dollars (\$3).

However, if the result is less than five dollars (\$5) then the civil penalty is five dollars (\$5).

(ii) The positive producer must, in conjunction with the producer's veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the board of animal health - office of the state veterinarian within thirty (30) days of the drug residue violation. Failure to complete the Protocol and provide proof of completion will result in action to suspend the producer's permit.

(iii) The producer must attend a producer education program or meeting designated by the state veterinarian. The producer is responsible for paying registration and material fees and other costs associated with attending the education program or meeting. The producer must provide proof of attendance to the state veterinarian within ten (10) days of completion of the program or meeting.

(C) The third positive test result for drug residues within a twelve (12) month period shall result in the following:

(i) The board revoking a producer's Grade A permit if the producer has a permit.

(ii) The sanctions for a second offense set forth in clause (B) are imposed.

(iii) The producer must submit to the state veterinarian a set of written procedures that the producer will follow to prevent future drug residue violations. The procedures must be submitted with the proof of completion required in clause (B) and must be specific, practical, and reasonably likely to lessen the possibility of a drug residue violation when followed by the producer.

(iv) After a producer's Grade A permit is revoked for a third offense violation under this statute, the producer may not receive a new Grade A permit for a revocation period of thirty (30) days from the date of the revocation. After the revocation period, the state veterinarian must issue a conditional Grade A permit to a producer that has applied for a permit if the producer has met all of the requirements of this section at the time of application and the producer meets all other requirements of the board for obtaining a Grade A permit. The permit must be issued on the condition that all of the requirements of this section must be completed within the time set forth in this section. A permit issued under this item automatically becomes unconditional after the producer fully complies with all of the provisions of this section.

(D) For each drug residue violation in a twelve (12) month period in excess of three (3) the producer is subject to the penalties for a third offense in clause (C), but for Grade A producers the revocation period will begin on the date the producer's permit is revoked and run for a period equal to

two (2) times the length of the revocation period imposed after the producer's last drug residue violation.

(e) The state veterinarian may, by special permit, allow a producer that objects to the imposition of a civil penalty to dump two (2) days of milk production on a first offense and four (4) days of milk production on the second or third offense instead of paying a civil penalty if payment of a civil penalty would impose undue hardship on a producer. The state veterinarian may set the conditions under which the milk is to be dumped and may require documentation from the producer showing the circumstances under which the milk was dumped.

(f) Civil penalties collected under this section shall be deposited in the dairy drug residue abatement fund established under section 17 of this chapter.

*As added by P.L.109-1998, SEC.5. Amended by P.L.1-1999, SEC.42; P.L.124-2001, SEC.155.*

#### **IC 15-2.1-23-7**

##### **Diagnosis of tuberculosis, brucellosis, and other diseases in dairy cattle**

Sec. 7. (a) Milk for pasteurization must be from herds that are located in a modified accredited tuberculosis area as determined by the United States Department of Agriculture. Herds located in an area that fails to maintain accredited status must be accredited by the United States Department of Agriculture as tuberculosis free or must have passed an annual tuberculosis test.

(b) Milk for pasteurization must be from herds under a brucellosis eradication program that meets one (1) of the following conditions:

(1) Located in certified brucellosis-free areas as defined by the United States Department of Agriculture and enrolled in the testing program for the area.

(2) Meets United States Department of Agriculture requirements for an individually certified herd.

(3) Participates in a milk ring testing program that is conducted on a continuing basis at intervals of not less than every six (6) months with individual blood tests on all animals in herds showing suspicious reactions to the milk ring tests.

(4) Conducts an individual blood agglutination test annually with an allowable maximum grace period not exceeding two (2) months.

(c) Goat milk and sheep milk for pasteurization must be from a herd or flock that meets health requirements adopted by rule of the board.

(d) For a disease other than brucellosis and tuberculosis, and for conditions other than disease that may adversely affect public health, the board shall require physical, chemical, or bacteriological tests as the board considers necessary. The diagnosis of other diseases in dairy cattle, goats, and sheep must be based upon the findings of a licensed veterinarian or a veterinarian in the employ of an official agency. A diseased animal must be disposed of as the board directs.

(e) Records documenting the tests required in this section shall be validated with the signature of a licensed veterinarian accredited by the United States Department of Agriculture or a board veterinarian. *As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.156.*

#### **IC 15-2.1-23-7.5**

##### **Storage of raw milk**

Sec. 7.5. Raw milk from dairy farms that do not have a valid permit from the board to sell Grade A raw milk for pasteurization must be cooled to sixty (60) degrees Fahrenheit and be maintained at that temperature at the point of origin unless the milk is delivered to a receiving station or transfer station within two (2) hours after milking.

*As added by P.L.124-2001, SEC.157.*

#### **IC 15-2.1-23-8**

##### **Sale of Grade A milk products; labeling requirements**

Sec. 8. (a) Only Grade A pasteurized milk, Grade A pasteurized milk products, and manufacturing grade milk products that meet the requirements of this chapter, including rules adopted under this chapter, may be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments.

(b) A municipality or county may not do the following:

(1) Impose different standards or requirements for Grade A milk and milk products or manufacturing grade milk products than those provided for in this chapter.

(2) Prohibit the sale of milk or a milk product if the milk or milk product has been produced and processed in accordance with this chapter.

(c) A milk product other than a milk product that bears a Grade A label must meet the requirements for the production, processing, and handling of Grade A milk. This labeling requirement does not apply to butter or to any other product that is excluded by rules of the board.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.158.*

#### **IC 15-2.1-23-8.5**

##### **Pasteurization; exceptions**

Sec. 8.5. (a) A person may not offer or expose for sale, sell, or deliver, or have possession of with intent to sell or deliver, milk or milk products for human consumption unless every particle of the final mixture of the milk or milk products used in processing or manufacture has been thoroughly pasteurized by equipment approved by the board.

(b) The provisions of this chapter governing pasteurization do not apply to a person selling or offering for sale cheddar cheese that has been made from unpasteurized milk if:

(1) the cheese was made from unpasteurized milk and has been

cured or ripened for not less than sixty (60) days at a controlled temperature of not less than thirty-five (35) degrees Fahrenheit;  
or

(2) the cheese is manufactured solely for the purpose of being made into processed cheese that is pasteurized during the blending or manufacturing process.

Varieties of cheese other than that of the cheddar type made from unpasteurized milk must be ripened for the time and under the conditions prescribed by rule of the board. Cheese made from unpasteurized milk and offered or exposed for sale to the consumer must be labeled by the manufacturer or distributor with the manufacturer's or distributor's name and address or an equivalent identifying number or symbol and with the date of manufacture or a statement to the effect that the cheese has been cured or ripened for at least sixty (60) days.

(c) A pasteurizer of any milk or milk products must be equipped with accurate indicating thermometers and accurate recording thermometers and, for vat pasteurization equipment, an accurate airspace thermometer of a type approved by the board. Each recording thermometer chart must be dated and numbered and must show the amount in gallons, the kind of product pasteurized, the accurate readings of the indicating thermometers and airspace thermometers, the time the reading was made, and the operator's initials. Each chart may not be used for more than one (1) day of operations. The records of the pasteurization of each batch pasteurized must be retained for at least ninety (90) days.

*As added by P.L.124-2001, SEC.159.*

### **IC 15-2.1-23-9**

#### **Transfer of milk products; storage containers**

Sec. 9. (a) Except as permitted in this section, a milk producer or distributor may not transfer milk or milk products from one (1) container or tank truck to another on the street, in a vehicle, store, or in any place except a milk plant, receiving station, transfer station, or milkhouse especially used for that purpose. The dipping or ladling of milk or fluid milk products is prohibited. A can milk hauler or a bulk milk hauler/sampler may not sample raw milk or milk products for the purpose of testing for butterfat or transfer raw milk or milk products from one (1) can or vehicle to another while in transit except in a receiving station, transfer station, or in conformity with the statutes and rules enforced by the board.

(b) A person may not sell or serve milk or a fluid milk product except in the individual, original container received from the distributor or from an approved bulk dispenser. However, this requirement does not apply to the following:

(1) Milk for mixed drinks requiring less than one-half (1/2) pint of milk.

(2) Cream, whipped cream, or half-and-half that is consumed on the premises and that may be served from the original container of not more than one-half (1/2) gallon capacity or from a bulk

dispenser approved for such service by the board.

(c) A person may not sell or serve pasteurized milk or a milk product that has not been maintained at a temperature required by rule adopted by the board. If containers of pasteurized milk or milk products are stored in ice, the storage container must be properly drained.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.160.*

#### **IC 15-2.1-23-9.5**

##### **Milk cans and receptacles**

Sec. 9.5. (a) A person may not place or cause to be placed in a milk can or receptacle any sweepings, refuse, dirt, litter, garbage, filth, or any other animal or vegetable substance liable to decay and tending to produce or promote an unsanitary condition.

(b) A person may not allow a can or receptacle to remain uncleaned or bring or deliver to a person an uncleaned can or a receptacle for the purpose of return, or bring or deliver any milk, cream, or ice cream can or receptacle for the purpose of delivery or shipment to any person or creamery engaged in selling or shipping substances for consumption as human food, when the can or receptacle contains particles of milk, cream, ice cream, or other substance prohibited from being placed there.

*As added by P.L.124-2001, SEC.161.*

#### **IC 15-2.1-23-10**

##### **Conditions for sale of products from points beyond limits of routine inspection**

Sec. 10. Milk and milk products from outside Indiana and not subject to the board's inspection may be sold in Indiana if the following conditions are met:

(1) The milk and milk products are produced and pasteurized under rules that are substantially equivalent to this chapter.

(2) The milk and milk products have been awarded an acceptable milk sanitation compliance and enforcement rating made by a state milk sanitation rating officer certified by the United States Food and Drug Administration.

(3) The milk originates from an area where the unit of government accepts Indiana Grade A milk and milk products certified by an Indiana sanitation rating officer.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.162.*

#### **IC 15-2.1-23-11**

##### **Employees affected by communicable diseases**

Sec. 11. (a) A person who is affected with a disease in a communicable form or who is a carrier of a disease may not work at a dairy farm or milk plant in any capacity that brings the person into contact with the production, handling, storage, or transportation of milk, milk products, containers, equipment, or utensils.

(b) A dairy farm or milk plant operator may not employ a person who is:

- (1) affected with or who is suspected of having a communicable disease; or
- (2) a carrier or who is suspected of being a carrier of a communicable disease;

in any capacity that brings the person into contact with the production, handling, storage, or transportation of milk, milk products, containers, equipment, or utensils.

(c) A producer or distributor of milk or milk products shall notify the board immediately if any of the following occur:

- (1) A communicable disease occurs on the producer's or distributor's dairy farm or milk plant.
- (2) The producer or distributor of milk or milk products suspects that an employee has contracted or has become a carrier of a disease in a communicable form.

*As added by P.L.137-1996, SEC.55.*

#### **IC 15-2.1-23-12**

##### **Powers of board upon suspicion of infection**

Sec. 12. When reasonable cause exists to suspect the possibility of transmission of infection from a person concerned with the handling of milk or milk products, the board may require any or all of the following measures:

- (1) The immediate exclusion of the person from milk handling.
- (2) The immediate exclusion of the milk supply concerned from distribution and use.
- (3) Adequate medical and bacteriological examination of the person, the person's associates, and their body discharges.

*As added by P.L.137-1996, SEC.55.*

#### **IC 15-2.1-23-13**

##### **Submission of plans for approval**

Sec. 13. Properly prepared plans for each milkhouse, milking barn, stable, parlor, transfer station, milk plant, milk tank truck cleaning facility, and receiving station regulated under this chapter that is constructed, reconstructed, or extensively altered must be submitted to the board for written approval before work is begun.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.163.*

#### **IC 15-2.1-23-14**

##### **Duties of board to administer rules and enforce chapter**

Sec. 14. (a) The board shall employ personnel necessary to adequately and efficiently enforce this chapter and the rules adopted under IC 4-22-2.

(b) The board may negotiate agreements with state and local governmental agencies necessary in the opinion of the board to provide for the proper administration of this chapter.

(c) The board may enter into reciprocal agreements with federal



or state milk control agencies having standards substantially equivalent with this chapter and that are enforced with equal effectiveness.

*As added by P.L.137-1996, SEC.55.*

#### **IC 15-2.1-23-15**

##### **Enforcement by board**

Sec. 15. The board shall enforce this chapter in accordance with the rules adopted under section 6 of this chapter and IC 15-2.1-3-19.

*As added by P.L.137-1996, SEC.55.*

#### **IC 15-2.1-23-15.5**

##### **Inspections; performance of official duties**

Sec. 15.5. A person who is licensed under this chapter or who is engaged in:

- (1) the production, transportation, processing, or packaging of raw or pasteurized milk and milk products;
- (2) the business of selling or distributing products described in subdivision (1) for human consumption; or
- (3) the business of manufacturing containers for milk and milk products;

may not prevent the inspectors and agents of the board from performing official duties.

*As added by P.L.124-2001, SEC.164.*

#### **IC 15-2.1-23-15.8**

##### **Inspections; authority to enter**

Sec. 15.8. The board shall enforce this chapter and for that purpose may enter upon and inspect premises on which containers are stored, suspected of being stored, or trafficked in or on premises where raw or pasteurized milk or milk products are produced, purchased, received, transferred, transported, stored, processed, or put in containers to be offered for sale or sold or distributed for human consumption.

*As added by P.L.124-2001, SEC.165.*

#### **IC 15-2.1-23-16**

##### **Violations**

Sec. 16. (a) A person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

*As added by P.L.137-1996, SEC.55. Amended by P.L.124-2001, SEC.166.*

#### **IC 15-2.1-23-17**

##### **Dairy drug residue abatement fund**

Sec. 17. (a) The dairy drug residue abatement fund is established to implement education and other programs designed to prevent drug residue violations. Money in the fund is appropriated for these purposes.

(b) The fund consists of civil penalties collected under section 6.5 of this chapter.

(c) The fund shall be administered by the board.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

*As added by P.L.109-1998, SEC.6.*